



## CRS Report for Congress

# Agricultural Issues in the 109<sup>th</sup> Congress

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### Summary

A number of issues affecting U.S. agriculture have been or are being addressed by the 109<sup>th</sup> Congress. The Deficit Reduction Act of 2005 (P.L. 109-171), enacted in February 2006, included a net reduction in spending on U.S. Department of Agriculture (USDA) mandatory programs of \$2.7 billion over five years, and the reauthorization of a dairy income support program. Other issues of importance to agriculture during the second session of the 109<sup>th</sup> Congress include the consideration of emergency farm disaster assistance; multilateral and bilateral trade negotiations; concerns about agroterrorism, food safety, and animal and plant diseases (e.g., “mad cow” disease and avian flu); high energy costs; environmental issues; agricultural marketing matters; the reauthorization of the Commodity Futures Trading Commission; and farm labor issues.

### Farm Production Support

**Budget and Spending.** Pressure to reduce the federal budget deficit required Congress to consider reductions in spending on USDA programs. The 109<sup>th</sup> Congress has addressed USDA spending levels on two fronts: in budget reconciliation and in the annual agriculture appropriations bill. The Deficit Reduction Act of 2005 (P.L. 109-171, enacted February 8, 2006) contains net reductions in USDA mandatory spending of \$2.7 billion over five years. Nearly half of this reduction was achieved through a change in the timing of farm commodity payments, and most of the balance consists of cuts to conservation, rural development, and research spending. Separately, the full House has passed and the Senate Appropriations Committee has reported their respective versions of the FY2007 Agriculture appropriations bill (H.R. 5384), which will provide annual funding for nearly all USDA agencies and programs. (See CRS Report RS22086, *Agriculture and FY2006 Budget Reconciliation*; and CRS Report RL33412, *Agriculture and Related Agencies: FY2007 Appropriations*.)

**Farm Disaster Assistance.** Several major weather events in 2005 and 2006, particularly Hurricanes Katrina and Rita and a widespread drought, have caused the 109<sup>th</sup> Congress to consider emergency disaster assistance for farmers this year. In response to

the 2005 hurricanes, Congress so far has provided about \$1.6 billion in agricultural assistance in two emergency supplemental acts (P.L. 109-148 and P.L. 109-234). To date, Congress has not authorized any emergency crop or livestock payments for 2005 or 2006 production losses outside of the Gulf states. However, the Senate-reported version of the FY2006 agriculture appropriations bill (H.R. 5384) contains \$4.0 billion in various forms of farm assistance, including payments for major crop and livestock losses caused by any 2005 disaster. Similar provisions for non-hurricane states were contained in the Senate-passed version of an FY2006 supplemental bill (H.R. 4939), but were deleted in conference because of a threatened Administration veto of the measure. (See CRS Report RS21212, *Agricultural Disaster Assistance*.)

**Farm Bill and Commodity Support Programs.** Farm income and price support programs are dictated primarily by Title I of the 2002 farm bill (P.L. 107-171), which expires in 2007. The House and Senate Agriculture Committee are conducting field hearings this year, with more intensive deliberations and markup expected in both committees in 2007. At issue is whether Congress will extend the current farm support policy, or if the pressures of tight federal spending constraints, concerns about the distribution of farm program benefits, and the threat of potential World Trade Organization (WTO) challenges to farm price and income support spending will compel Congress to consider significant changes to existing farm policy. (See CRS Report RL33037, *Previewing a 2007 Farm Bill*, and CRS Report RS21999, *Farm Commodity Policy: Programs and Issues for Congress*.)

**Payment Limits.** Most crop payments are subject to annual per-person limits. Past legislative efforts to reduce the maximum amount of payments that producers can receive have been thwarted by strong opposition from southern cotton and rice growers. In the 109th Congress, S. 385 and H.R. 1590 would reduce payment limits to a total of \$250,000 and count commodity certificates and loan forfeiture toward the limits. A Senate floor amendment to add payment limits to the Deficit Reduction Act of 2005 (P.L. 109-171) failed by a procedural vote of 46-53. The Administration's FY2007 budget request contains a legislative proposal that would tighten crop payment limits. (See CRS Report RS21493, *Payment Limits for Farm Commodity Programs: Issues and Proposals*.)

**Dairy.** The Milk Income Loss Contract (MILC) program provides payments to dairy farmers when farm milk prices are below a specified target level. A provision in the FY2006 budget reconciliation act (P.L. 109-171) extended MILC program authority for two years, through September 30, 2007, but prohibits any MILC payments beyond August 31, 2007. Consequently, under current budget rules, the program will have no baseline budget spending allocated to it beyond its expiration date. A provision in the House-reported version of the FY2007 Agriculture appropriations bill (H.R. 5384) would have allowed payments in September 2007 and preserved the program's budget baseline for the next farm bill debate in 2007. Because of its budget implications, the provision was deleted on the House floor. Separately, Congress also completed action on a measure (P.L. 109-215, S. 2120) that requires the regulation of a certain large dairy operation in the West that was previously exempt from paying federally mandated minimum farm milk prices. (See CRS Report RL33475, *Dairy Policy Issues*.)

**WTO Cotton Case.** In March 2005, a WTO appellate panel ruled against the United States in a dispute settlement case brought by Brazil, stating that elements of the U.S. cotton program are not consistent with U.S. trade commitments. In response,

Congress included a provision in the Deficit Reduction Act of 2005 (P.L. 109-171) authorizing the elimination of the Step-2 cotton program on August 1, 2006. Following the indefinite suspension of the WTO Doha Round of multilateral trade negotiations in July 2006, Brazil has pressed for further reductions in U.S. cotton support in response to the panel ruling. On September 28, 2006, the WTO established a compliance panel in response to a request by Brazil to determine whether current U.S. actions are sufficient to comply with the original WTO rulings and recommendations. As a result, additional permanent modifications to U.S. farm programs may still be needed to fully comply with the “actionable subsidies” portion of the WTO ruling. Such changes ultimately would be decided by Congress, most likely in the context of the 2007 farm bill. (See CRS Report RS22187, *U.S. Agricultural Policy Response to WTO Cotton Decision*.)

**Conservation Programs.** Spending for conservation programs, which help producers protect and improve natural resources on some farmed land and retire other land from production, have grown rapidly since the 2002 farm bill, reaching a total of more than \$5.2 billion in FY2005. This growth in spending reflects the expanded reach of conservation programs, which now involve many more landowners and types of rural lands. Budget pressures forced the 109<sup>th</sup> Congress to weigh the benefits of these programs against growing costs. The Deficit Reduction Act of 2005 (P.L. 109-171) reduced spending on several mandatory conservation programs by a combined \$934 million over five years. Another topic that continues to attract congressional interest is implementation of the Conservation Security Program, enacted in 2002. Some stakeholders have questioned why USDA has implemented the program in only a few watersheds, and why Congress has limited funding even though the program was enacted as a true entitlement. The environmental, conservation, and agriculture communities have started to identify conservation policy options that might be considered in the next farm bill. The House and Senate Agriculture Committees have started to examine selected conservation issues in recent hearings. (See CRS Report RL33556, *Soil and Water Conservation: An Overview*.)

**Energy.** Although not as energy-intensive as some industries, agriculture is a major consumer of energy — directly, as fuel or electricity, and indirectly, as fertilizers and chemicals. In early September 2005, energy prices jumped to record levels in the wake of Hurricanes Katrina and Rita. By raising the overall price structure of production agriculture, sustained high energy prices could result in significantly lower farm and rural incomes in 2006, and are generating considerable concern about longer-term impacts on farm profitability. Agriculture also is viewed as a potentially important producer of renewable fuels such as ethanol and biodiesel, although farm-based energy production remains small relative to total U.S. energy needs. The energy bill (P.L. 109-58) enacted in July 2005 includes a renewable fuels standard (RFS) for biofuels that grows from 4 billion gallons in 2006 to 7.5 billion gallons in 2012. The RFS, along with tax credit incentives, is expected to encourage significant increases in U.S. ethanol production. (See CRS Report RL32677, *Energy Use in Agriculture: Background and Issues*; and CRS Report RL32712, *Agriculture-Based Renewable Energy Production*.)

## Agricultural Trade Policy

**Trade Negotiations.** U.S. trade policy seeks to improve market access for U.S. agricultural products through multilateral, regional, and bilateral trade agreements. U.S. officials also seek to hold countries to commitments made under existing agreements, and to resolve disputes impeding farm exports. The Administration is participating in the

current Doha Round of multilateral trade negotiations, which have focused on the so-called three pillars of agricultural trade liberalization: trade-distorting domestic subsidies, market access, and export competition. Negotiators have been unable to reach a compromise agreement on reducing subsidies or expanding market access for agricultural products. The expiration of Trade Promotion Authority for fast-track consideration of trade agreements next year makes the end of 2006 the effective deadline for getting an agreement ready for congressional consideration. The United States has insisted that it will not improve its offer on domestic subsidy reduction unless the EU improves its market access offer and the G-20 countries show a willingness to open their markets not only to agricultural products but to industrial products and services as well. (See CRS Report RL33144, *WTO Doha Round: The Agricultural Negotiations*.)

The 109<sup>th</sup> Congress passed legislation (P.L. 109-53) to implement the Dominican Republic-Central America-U.S. free trade agreement (DR-CAFTA) despite strong opposition from the U.S. sugar industry, which fears those countries would gain increased access to the U.S. market. Separately, and also negotiating new free trade agreements with Panama, the Andean countries, Thailand, and the Southern African Customs Union, among others. (See CRS Report RL32110, *Agriculture in the U.S.-Dominican Republic-Central American Free Trade Agreement*.)

**Other Trade Issues.** Other ongoing issues of interest to Congress include rules of trade for the products of agricultural biotechnology (see CRS Report RL32809, *Agricultural Biotechnology: Background and Recent Issues*); the scope of restrictions that should apply to agricultural sales to Cuba (see CRS Report RL33499, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*); and funding for U.S. agricultural export and food aid programs (see CRS Report RL33553, *Agricultural Export and Food Aid Programs*).

## Protecting the Food Supply

**Agroterrorism.** The potential of terrorist attacks against agricultural targets (agroterrorism) is increasingly recognized as a national security threat. “Food defense” — hardening the critical infrastructure against possible attack — has received increased attention since 2001. Through increased appropriations, laboratory and response capacities are being upgraded. National response plans now incorporate agroterrorism. Yet some in Congress want additional laws or oversight to increase the level of food defense, particularly regarding interagency coordination, response and recovery leadership, and ensuring adequate border inspections. (See CRS Report RL32521, *Agroterrorism: Threats and Preparedness*.)

**Food Safety.** Approximately 76 million people get sick and 5,000 die from food-related illnesses in the United States each year, it is estimated. Congress frequently conducts oversight and periodically considers legislation on food safety and could do so again. Some Members continue to be interested in the control of animal diseases that also threaten human health; the regulation of bioengineered foods, human antimicrobial resistance (which some link partly to misuse of antibiotics in animal feed), and the safety of fresh produce. In the 109<sup>th</sup> Congress, for example, S. 729 and H.R. 1507 propose to consolidate U.S. food safety oversight under an independent U.S. agency. H.R. 3160 and S. 1357 clarify USDA’s authority in prescribing performance standards for the reduction of pathogens in meat and poultry products. (See CRS Report RL31853, *Food Safety*

*Issues in the 109th Congress; and CRS Report RL32922, Meat and Poultry Inspection: Background and Selected Issues.*)

**BSE.** Bovine spongiform encephalopathy (BSE or “mad cow disease”) continues to attract interest, with eleven native North American cases (three in the United States) confirmed through early October 2006. Authorities characterize the risk to human health from these cases as extremely low. However, the beef industry has suffered economically due to foreign borders being closed to U.S. beef. The appearance of BSE in North America in 2003 raised meat safety concerns and disrupted trade for cattle and beef producers. A major issue for Congress has been how to rebuild foreign markets for U.S. beef. Other issues include whether additional measures are needed to further protect cattle and the public, and concerns over the relative costs and benefits of such measures for consumers, taxpayers, and industry. (See CRS Report RS22345, *BSE (“Mad Cow Disease”): A Brief Overview.*)

**Avian Influenza.** Since 2003, highly pathogenic avian influenza (H5N1) has spread from Asia into Europe, the Middle East, and Africa; however, no cases of H5N1 have been found yet in the United States. Because avian flu is highly contagious in domestic poultry and can be carried by wild birds, on-farm biosecurity is important. Controlling avian flu in poultry is seen as the best way to prevent a human pandemic from developing. Congress responded to the threat by providing an emergency FY2006 supplemental appropriation (in P.L. 109-148) to combat avian flu, including \$91 million for USDA operations. This supplements the regular funding of \$28 million for FY2006, which includes \$15 million in unused funds from prior years. For FY2007, USDA requests \$82 million for avian flu. (See CRS Report RS21747, *Avian Influenza: Agricultural Issues.*)

## Marketing

**Country of Origin Labeling (COOL).** Mandatory COOL for fresh meats, produce, and peanuts was scheduled to take effect September 30, 2006. However, the FY2006 Agriculture Appropriations Act (P.L. 109-97) again postponed mandatory COOL for two additional years. Some Members continue to support mandatory COOL, and a few of them would prefer that it take effect sooner (S. 1331) or be expanded to processed meats (S. 135). Others have sought to replace mandatory COOL with voluntary labeling programs. A bill (H.R. 2068) sponsored by the chairman of the House Agriculture Committee (and an identical Senate bill, S. 1333) would make COOL labeling voluntary for fresh meats. S. 1300 would make COOL voluntary for meat, fish, and produce. (See CRS Report 97-508, *Country-of-Origin Labeling for Foods.*)

**Farm Animal Protection.** Both the Senate- and House-passed versions of the FY2006 agriculture appropriation bill (H.R. 2744) barred use of appropriated funds to pay for ante-mortem inspection of horses for food. The enacted version (P.L. 109-97) makes the funding ban effective only for approximately the last six months of FY2006; during this time the three foreign-owned plants in the U.S. that currently slaughter horses, primarily for European and Japanese consumers, are paying user fees for such inspection. Free-standing legislation to ban horse slaughter includes H.R. 503 (which passed the full House by a vote of 263-146 on September 7, 2006) and S. 1915. Among other pending farm animal welfare related-bills are S. 1779 and H.R. 3931, to prohibit nonambulatory livestock (also called “downers”) from being used for human food; and H.R. 5557, to

require the federal government to purchase only food and fiber products that were raised in compliance with prescribed humane standards. (See CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*; and CRS Report RS21978, *Humane Treatment of Farm Animals: Overview and Issues*.)

## **CFTC Reauthorization**

The Commodity Futures Trading Commission (CFTC) is an independent federal regulatory agency that regulates the futures trading industry. The CFTC is subject to periodic reauthorization; current authority expired on September 30, 2005. Congress traditionally uses the reauthorization process to consider amendments to the Commodity Exchange Act (CEA), which provides the basis for federal regulation of commodity futures trading. The House and Senate Agriculture Committees, with jurisdiction over CFTC, conducted hearings on CFTC reauthorization in March 2005. The full House passed its version of CFTC reauthorization (H.R. 4473) on December 14, 2005. Floor action on a Senate-reported measure (S. 1566) is pending. Among the issues in the debate are (1) regulation of energy derivatives markets, where some see excessive price volatility and a lack of effective regulation; (2) the market in security futures, or futures contracts based on single stocks, where cumbersome and duplicative regulation is blamed for low trading volumes; (3) the regulatory status of foreign futures exchanges selling contracts in the United States; and (4) the legality of futures-like contracts based on foreign currency prices offered to retail investors. (See CRS Report RS22028, *CFTC Reauthorization in the 109<sup>th</sup> Congress*.)

## **Farm Labor and Immigration Reform**

Hired farmworkers are an important component of agricultural production. Many of these laborers are under guest worker programs, which are meant to assure employers (e.g., fruit, vegetable, and horticulture growers) of an adequate supply of labor when and where it is needed while not adding permanent residents to the U.S. population. The connection between farm labor and immigration policies is a longstanding one, particularly with regard to U.S. employers' use of workers from Mexico. The 109<sup>th</sup> Congress is taking up the issue as part of a larger debate over initiation of a broad-based guest worker program, increased border enforcement, and employer sanctions to curb the flow of unauthorized workers into the United States. House and Senate immigration reform measures (H.R. 4437 and S. 2454) currently being debated have important implications for hired farm labor. Other bills (H.R. 884/S. 359 and H.R. 3857) introduced in the 109<sup>th</sup> Congress specifically address agricultural labor issues. (See CRS Report RL33125, *Immigration Legislation and Issues in the 109<sup>th</sup> Congress*; CRS Report 95-712, *The Effects on U.S. Farm Workers of an Agricultural Guest Worker Program*; and CRS Report RL30395, *Farm Labor Shortages and Immigrations Policy*.)